

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHEASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHARLES WILLIAM CARLTON,

Defendant.

Case No. 3:12-cr-119-01

**UNITED STATES' RESPONSE TO
MOTION FOR CONTINUANCE**

The United States of America, by Timothy Q. Purdon, United States Attorney for the District of North Dakota, and Christopher C. Myers, Assistant United States Attorney, hereby files this response to the motion for continuance filed by defendant Charles William Carlton. The United States opposes further continuance of this matter as unnecessary and unreasonable.

The Indictment in this case was returned on December 13, 2012. Defendant Carlton was initially arrested on December 17, 2012, in Texas, and released on bond. This Court ordered Staying Execution of the Magistrate Judge's Order Setting Conditions of Release and issued an arrest warrant on December 21, 2012, and defendant Carlton was arrested that day. Defendant Carlton was transferred to this District and was arraigned on January 29, 2013. Defense attorney Alex Reichert was present at the arraignment and was appointed CJA counsel on January 31, 2013, the day of the scheduled detention hearing. At the detention hearing, this Court released the defendant.

Discovery was sent to defense counsel on February 5, 2013, following the receipt of the Stipulated Discovery and Protective Order, which was filed on February 7, 2013. Additional discovery was sent to the defendant on March 4, and March 26, 2013.

Defendant Carlton filed his first motion to continue on February 21 requesting a continuance of six months “because the discovery in this case is voluminous and the Defendant has to travel extensively to review discovery. [Prosecutor has indicated that there is additional discovery] . . . In addition, the Defendant is going to have to hire an expert given the complicated scientific issues in the case.” (Doc. 68) The United States did not oppose a continuance of 90 days, but did oppose a continuance of six months as “unnecessary and unreasonable in this case.” (Doc. 70) Defendants Polinski and Landry also motioned for a continuance. (Docs. 67 and 71) Defendants all waived speedy trial rights. (Docs. 69, 72, and 74)

On March 4, 2013, the Court issued an Order Granting Motions to Continue, citing “An ends-of-justice continuance may be justified on the grounds that one side needs more time to prepare for trial.” United States v. Dota, 33 F.3d 1179, 1183 (9th Cir. 1994) (citing 18 U.S.C. § 3161(h)(8)(B)(iv)). Additionally, an ends-of justice continuance may be justified in order for plea negotiations to be pursued. United States v. Fields, 39 F.3d 439, 445 (3d Cir. 1994).”

Defendant Carlton now motions for another continuance stating, “. . . counsel for the Defendant is not able to meet the Government’s deadline to proffer, which is March 29, 2013.” This is an immaterial basis for a continuance; this deadline will not be extended regardless as to whether the Court grants a further continuance.

Additionally, “counsel for the Defendant need to retain a significant number of experts and review a significant amount of extremely complex discovery.” This is the same basis as in his first motion for continuance.

The United States has several victims in this case to consider. Two young men died as a result of the distribution of the controlled substances and controlled substance analogues that are the subject matter of this Indictment.

The defendant has not shown good cause for a second continuance. The Court should deny this motion.

Dated: March 27, 2013.

TIMOTHY Q. PURDON
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CERTIFICATE OF SERVICE

I hereby certify that on March 27, 2013, the following document:

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was filed electronically with the Clerk of Court through ECF, and that ECF will send a Notice of Electronic Filing (NEF) to the following:

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